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Message Text

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ACTION EUR-25

INFO OCT-01 ISO-00 SAJ-01 OMB-01 NIC-01 ACDA-19 IO-14

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FM USMISSION BERLIN
TO SECSTATE WASHDC 3432
AMEMBASSY BONN
INFO AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
USMISSION NATO

C O N F I D E N T I A L BERLIN 0877

E.O. 11652: GDS
TAGS: PFOR, WB, GW, UR
SUBJECT: SOVIET PROTESTS RE ELECTION OF FRG PRESIDENT
AND PROPOSED FRG CITIZENSHIP LAW

REF: BONN 6968

1. SUMMARY: IN TWIN STATEMENTS DELIVERED MAY 23 SOVIET EMBASSY PROTESTED TO ALLIED MISSIONS PARTICIPATION OF BERLIN DEPUTIES IN ELECTION OF FRG PRESIDENT AND PROPOSED INCLUSION OF BERLIN IN FRG CITIZENSHIP LAW. US (CHAIRMAN) POLAD USED AGREED CONTINGENCY LINE IN REPLYING TO FORMER, AND GAVE PRELIMINARY REBUTTAL TO LATTER STATEMENT. END SUMMARY.

2. SOVIET EMBASSY COUNSELOR RODIN CALLED ON US (CHAIRMAN) POLAD MAY 23 TO DELIVER TWO ORAL STATEMENTS. FIRST CONCERNED PARTICIPATION OF BERLIN DEPUTIES IN MAY 15 PRESIDENTIAL ELECTION:

"THE SOVIET SIDE CONSIDERS THE PARTICIPATION BY
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REPRESENTATIVES OF WEST BERLIN IN THE ELECTION OF THE

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PRESIDENT OF THE FRG ON MAY 15 OF THIS YEAR TO BE A
FLAGRANT VIOLATION OF A PIVOTAL PROVISION OF THE
QUADRIPARTITE AGREEMENT, WHICH STATES THAT WEST BERLIN
IS NOT A CONSTITUENT PART OF THE FRG AND HENCEFORTH
CANNOT BE GOVERNED BY IT."

3. US POLAD RESPONDED, IN ACCORDANCE WITH AGREED CONTIN-
GENCY LINE REFTEL, THAT QA AT NO POINT SPECIFIED THAT
REPRESENTATIVES OF WESTERN SECTORS COULD NOT PARTICIPATE
IN ELECTION OF FEDERAL PRESIDENT. ALL QA STATED IN THIS
CONNECTION WAS THAT BUNDESVERSAMMLUNG ITSELF COULD NOT
MEET IN BERLIN. RODIN, BY WAY OF REJOINDER, SAID THAT
LEGAL CASE WAS VERY CLEAR TO SOVIETS: WEST BERLIN WAS
NOT CONSTITUENT PART OF FRG, AND IT FOLLWED FROM THIS THAT RESPRESEN-
TATIVES OF WEST BERLIN COULD NOT PARTICIPATE IN ELECTION
OF FRG PRESIDENT. RODIN DID NOT, HOWEVER, SEEM INCLINED
TO ARGUE MATTER FURTHER, AND IMPRESSION WAS THAT STATEMENT
WAS PRO FORMA. POLAD NOTED WITH SATISFACTION SOVIETS
USED CORRECT LANGUAGE OF QA (IN THIS AND SEBSEQUENT
STATEMENT) BY INVSERTING WORD "CONSTITUENT" BEFORE WORD
"PART."

4. SECOND SOVIET STATEMENT ALSO TOUCHED ON QUESTION OF
RELATIONSHIP BETWEEN BERLIN AND BUND:

"ACCORDING TO OUR INFORMATION, THE GOVERNMENT OF THE
FRG HAS SENT TO THE BUNDESRAT A DRAFT LAW CONCERNING
CHANGES IN THE 1913 LAW ON IMPERIAL CITIZENSHIP, IN WHICH
THERE IS AN ARTICLE PROVIDING FOR THE EXTENSION OF THE
VALIDITY OF THE DRAFT LAW TO "LAND BERLIN."

"IN THIS CONNECTION, THE EMBASSY CONSIDERS IT NECES-
SARY TO STATE THE FOLLOWING:

" AS IS KNOWN, IN ACCORDANCE WITH THE QUADRIPARTITE
AGREEMENT OF 3 SEPTEMBER 1971, THE WESTERN SECTORS OF
BERLIN ARE NOT A CONSTITUENT PART TF THE FRG AND ARE

NOT GOVERNED BY IT. THEREFORE, PRESENT RESIDENTS OF
WEST BERLIN ARE NOT AND CANNOT BE CITIZENS OF THE FRG,
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AND, ACCORDINGLY, THE VALIDITY OF FRG LEGISLATION ON
MATTERS OF CITIZENSHIP CANNOT BE EXTENDED TO THEM.

"APART FROM THIS, THE USE OF THE TERM "LAND BERLIN"
IN THE TEXT OF THE DRAFT LAW ALSO RUNS COUNTER TO THE
PROVISIONS OF THE QUADRIPARTITE AGREEMENT THAT WEST BERLIN
DOES NOT BELONG TO THE FRG, AND IS UNLAWFUL.

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"CALLING THE ATTENTION OF THE AUTHORITIES FO THE USA, GREAT BRITAIN, AND FRANCE TO THE CONTENT OF THE ABOVE DRAFT LAW, THE SOVIET SIDE IS INFLUENCED BY A DESIRE TO AVOID DIFFICULTIES IN THE MATTER OF IMPLEMENTATION OF THE QUADRIPARTITE AGREEMENT. IT EXPECTS THAT THE AUTHORITIES OF THE THREE POWERS IN THE WESTERN SECTORS OF BERLIN WILL TAKE ALL NECESSARY MEASURES SO AS NOT TO

PERMIT THIS VIOLATION."

5. POLAD RESPONDED THAT QUESTION OF CITIZENSHIP FOR WEST BERLINERS WAS OLD ONE, WHICH HAD NOT BEEN EXPLICITY RESOLVED IN CONTEXT OF QA NEGOTIATIONS DUE TO OPPOSING LEGAL VIEWS OF TWO SIDES. IT HAD BEEN AGREED, HOWEVER, IN AGREED MINUTE 1, THAT WEST BERLIN RESIDENTS COULD UTILIZE FRG PASSPORTS FOR TRAVEL TO SOVIET UNION, AND IT WAS UNDERSTOOD BY ALL SIDES THAT THEIR NATIONALITY WOULD BE DESCRIBED AS "DEUTSCH" IN SUCH DOCUMENTS. AS FAR AS TERM "LAND BERLIN" WAS CONCERNED, POLAD NOTED THAT ALLIES HAD MADE APPROPRIATE RESERVA-TIONS IN CONNECTION WITH BOTH GRUNDGESETZ AND BERLIN CONSTITUTION. HOWEVER, WE HAD CONSENTED TO FEDERAL REPUBLIC'S USE OF TERM IN ADMINISTRATIVE CONTEXT, PRACTICE THAT NOW DATED BACK MANY YEARS. WE SAW THIS AS IN NO WAY CONTRADICTORY TO QA. IN CONCLUDING, POLAD SAID THAT HE WAS NOT FAMILIAR WITH DRAFT LAW IN QUESTION AND COULD NOT THEREFORE COMMENT ON IT DIRECTLY. HE WOULD, OF COURSE, REPORT SOVIET STATEMENT TO HIS AUTHORITIES.

6. RODIN RECALLED THAT QUESTION OF CITIZENSHIP FOR BERLINERS HAD BEEN SUBJECT OF "SHARP" DISCUSSION DURING QA NEGOTIATIONS. SOVIET UNION HAD NOT RECOGNIZED IN ANY WAY THAT WEST BERLINERS COULD BE PLACED IN SAME CATEGORY
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AS CITIZENS OF FRG, AND FOR THIS REASON TERM "PERMANENT RESIDENTS OF THE WESTERN SECTORS" HAD BEEN COINED AS COMPROMISE. THIS VERY TERM, SAID RODIN, MADE IT CLEAR THAT WEST BERLINERS DID NOT ENJOY SAME CITIZENSHIP AS INHABITANTS OF FRG. IT WAS, HE CONCLUDED, ILLOGICAL FOR ALLIES TO ACKNOWLEDGE THAT WEST BERLIN WAS NOT PART OF FRG, AND YET AT SOME
TIME TO MAINTAIN THAT THEY SHARED
SAME NATIONALITY. IN ANSWER, POLAD POINTED OUT ONCE MORE THAT SOVIETS HAD ACKNOWLEDGED THAT RESIDENTS OF WEST BERLIN COULD TRAVEL OF FRG PASSPORTS, ONLY DIFFERENCE BEING INCLUSION OF SPECIAL STAMP IN ACCORDANCE WITH AGREED MINUTE.

7. MISSION SUGGESTS THAT FIRST STATEMENT, BEING INTENDED

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SIMPLY TO REITERATE WELL-KNOWN POSITION, CAN DO WITHOUT FURTHER
RESPONSE. WE WOULD PROPOSE TO WORK OUT IN CONJUNCTION
WITH BRITISH AND FRENCH MISSIONS HERE POSSIBLE ANSWER TO
SECOND STATEMENT.KLEIN

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